MANAGING DIVERSITY

Presenter: Mr. Vergus W. Davis, Jr.

MCIPAC/MCB Camp S.D. Butler,

Equal Employment Opportunity

MANAGING DIVERSITY

- **Topics of Discussion:**

Diversity

Why is it Important

in todays work place?

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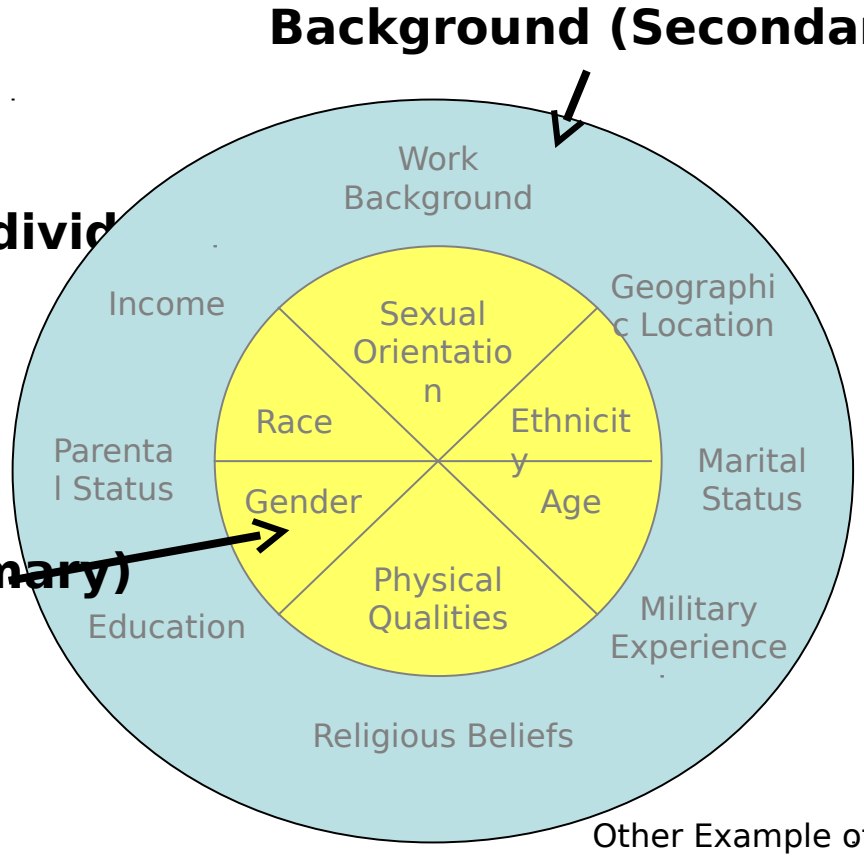
- **What can be identified as Cultural Differences**
  - **Age**
  - **Ethnic Background**
  - **Working as Group or Individ**
  - **Extrovert / Introvert**



Other Example of Diversity

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- **Understanding Cultural Differences**

- **Dealing with Cultural Differences**
- **Video**

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- **Managing Diversity**

Positive Actions – Listen, Observe, Understand, Respect Cultural Differences.

Leads to – Motivation, Productivity, Utilize Talent, Winning Situation for
Both parties

Negative – Judge, Assume, Exclusion, Possible Disciplinary Action.

Leads to – Anxiety, Intimidations, Complaints Filed, Separation of Quality employees.

"You don't get harmony when everybody sings the same note"

- Doug Floyd

MANAGING DIVERSITY

QUESTIONS?

EQUAL EMPLOYMENT OPPORTUNITY

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- **Topics of Discussion:**

- **What is EEO?**
- **NO FEAR ACT**
- **Legal Basis for EEO**
- **Unlawful Discrimination**
- **Sexual Harassment**
- **Discrimination-Free Workplace**
- **EEO Complaint Process**

EQUAL EMPLOYMENT OPPORTUNITY

What is EEO?

-Equal Employment Opportunity (EEO) is a federal policy to:

- Eliminate Unlawful discrimination and
- Eliminate Sexual Harassment from the workplace

-Managers and supervisors are responsible for maintaining a workplace that is free from discrimination and sexual harassment.

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EEO and Management:

-A major responsibility for supervisors/managers is to support and enforce rules governing EEO.

-As supervisors you hire, train, promote, reward, and discipline employees. When performing these HR management functions, you must understand how EEO impacts your decisions. Perception is everything.

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Supervisors / Managers:

- Are expected to support EEO and POSH while providing equal opportunity in all aspects of employment

- Must assure the understanding and implementation of EEO policy and program throughout the workforce and that it will be assessed annually on performance

- The Act also requires that the DON inform current employees, former employees, and applicants for employment of the rights and protections available under federal anti-discrimination, whistleblower protection, and retaliation laws.

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Notification and Federal Employee Anti-Discrimination and Retaliation (No FEAR) Act of 2002:

-The Act requires that “Federal agencies be accountable for violations of antidiscrimination and whistleblower protection laws.”

●Three Title under No Fear Act:

-Title I General Provisions allows agencies to take disciplinary action up to removal upon EEOC Administrative Judge’s orders, or Agency final decision on finding of discrimination

-Title II Federal Employee Discrimination and Retaliation: Repayment and reimbursement from the Agency

-Title III EEO Complaint Data Disclosure Posting of the Agency EEO complaints data

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Legal Basis:

-Title VII of the Civil Rights Act (1964): Prohibits employment discrimination based on Race, Color, National Origin, Religion, and Sex.

-Age Discrimination in Employment Act (ADEA) (1967): Prohibits employment discrimination based on age (40 and older)

-Equal Pay Act (1963): Prohibits Sex-Based Wage Discrimination

-Rehabilitation Act (1973): Prohibits employment discrimination based on mental or physical disability

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Legal Basis (Cont):

-Americans with Disabilities Act (1990): Prohibits employment discrimination based on mental or physical disability

-Americans with Disabilities Amendment Act (2008): Broadens the scope of individuals who qualify for protection under the ADA (1990)

-Genetic Information Nondiscrimination Act of 2008: Title I of GINA prohibits discrimination by health insurers and employers based on individuals' genetic information

-Title II of GINA prohibits the use of genetic information in making employment decisions; restricts the acquisition of genetic information by employers; imposes strict confidentiality requirements; and prohibits retaliation against individuals who oppose actions made unlawful by GINA.

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Unlawful Discrimination:

-Job decisions based on one's Race, Color, National Origin, Sex, Religion, Age, or Disability.

-Harassment based on one's Race, Color, National Origin, Sex, Religion, Age, or Disability.

-Retaliation against an individual for filing a charge of discrimination, participating in an investigation, or opposing discriminatory practices

-Individuals must not be discriminated at the workplace on the basis of their immutable characteristic associated with race (skin color, hair texture, or certain facial features)

-It is unlawful to assign or classify employees according to race or color and segregate or physically isolate people of a certain race or color from other employees or from customer contact

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Unlawful Discrimination (Cont):

-Individuals must not be discriminated in the workplace on the basis of an ethnicity or physical, linguistic, or cultural traits such as “Language requirements”; “Weight/height requirements”; and “Dress limitations” are considered discriminatory unless you can prove business necessity

-Pregnancy-Based Discrimination: Employers must treat pregnancy, childbirth, and related medical conditions in the same way they treat other temporary illnesses

-Sexual Harassment is a form of sex discrimination prohibited by Title VII of the Civil Rights Act

-Employers may not treat employees or applicants less (or more) favorably because of their religious beliefs or practices

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Unlawful Discrimination (Cont):

-Employees cannot be forced to participate (or not participate) in a religious activity as a condition of employment

-Employers must take steps to prevent religious harassment of their employee

-Employers must reasonably accommodate the employees' sincerely held religious beliefs or practices unless doing so would impose an undue hardship on the employer

-Age discrimination (ADEA) protects individuals who are age 40 years of age or older from employment discrimination, and employers shall not place age limitation on job announcements unless it is a bona fide occupational requirement. Deny training or benefits to older workers.

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Unlawful Discrimination (Cont):

-Employers must not require the applicant to take a medical examination before making a job offer (unless required by the duties of the position) all medical information must be kept confidential.

-Employers should make reasonable accommodation for a known disability of a qualified applicant or employee unless it causes undue hardship to the employer

●Accommodation request:

-A “qualified” employee or applicant with a disability is an individual who, with or without reasonable accommodation, can perform the essential functions of the job in question

-Reasonable accommodation may include grooming or wearing of religious articles, Acquiring or modifying facilities and/or

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Accommodation request Cont:

-The accommodation request is a statement that an individual needs an adjustment or change at work or in the application process for a reason related to a medical condition

-Request may be written or oral

-Request may require additional medical documentation unless the disabling condition is obvious or has been previously documented, if the request covers a continuing condition, the initial documentation may be all that is needed

-Should generally be provided to the supervisor, and may be made by a family member or health care provider for the individual

-Should be made in advance when the condition is known -- but may be made at any time

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Processing the Accommodation Request:

-Be flexible - one size does not fit all cases
-Use methods that put the fewest burdens on the employee or applicant
-Discuss the request with the individual to see what options are open.

●Denying request must be:

-Must be in written in plain language stating the reasons for the denial with as much specificity as possible

-State the name of the person who made the decision, and inform the individual that he or she may seek informal dispute resolution or file an EEO complaint.

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Computer Electronics Accommodation Program (CAP):

-Hiring
-Recruitment
-Promotion
-Retention

“Accommodating and retaining employees is good business…”

Disability education and awareness / Assistive Technology and classes / Cost of installation, hardware, etc when applicable.

Other helpful websites:

- **ww.tricare.mil**
- **www.disabilities.gov**
- **www.eeoc.gov**

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Retaliation:

-Be aware of reprisal actions or those that have the appearance of reprisal

-Retaliation has jumped to the #1 EEO complaint

-An allegation of reprisal is in itself an individual complaint of discrimination

●Example:

Retaliatory adverse treatment may consist of harassment, disciplinary action, failure to promote, or lowering an employee's performance rating because the employee filed a complaint or participated in the complaint process.

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MOVIE TIME

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PREVENTION OF SEXUAL HARASSMENT (POSH)

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- **What constitutes Sexual Harassment?**

- **Unwelcome conduct (verbal or physical) of a sexual nature that is explicitly or implicitly affects an individual's employment; and unreasonably interferes with an individual's work performance; creates an intimidating, hostile, or offensive work environment.**

- **Sexual harassment can occur in a variety of circumstances to include the victim as well as the harasser may does not have to be of the opposite sex. The harasser can be the victim's supervisor, an agent of the employer, a supervisor in another area, a co-worker, or a non-employee. The victim does not have to be the person harassed but could be anyone affected by the offensive conduct. Unlawful sexual harassment may occur without economic injury to or discharge of the victim.**

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- **Types of sexual harassment:**

- **Quid Pro Quo – “This for that”**

- **Requesting sexual favors in exchange of a job benefit**

- **Hostile Work Environment Intimidating or offensive work environment that interferes with an individual’s work performance**

- **Third Party Harassment a conduct that may be consensual between the two parties, but offends a third party who observes the behavior.**

Sexual Harassment violations are based primarily on the perception of the victim NOT the intention of the accused

“It’s all in the eyes of the RECEIVER”

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- **Examples of Inappropriate Behavior include:**

(VERBAL)

- Sexual teasing
  - Off color jokes or remarks
  - Pressure for dates
  - Spreading rumors of a sexual nature, or asking about personal lives

(NON-VERBAL)

- Inappropriate Gestures
- Letters, drawings, or posters of a sexual nature
- Giving sexually suggestive gifts
- Inappropriate e-mail messages

(PHYSICAL)

- Brushing up against someone
- Cornering someone
- Massage around neck & shoulders
- Touching a person’s clothing, hair or body
- Sitting on someone’s lap

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- **The Department of the Navy Policy on Sexual Harassment is*:***

“ZERO TOLERANCE”

Harasser can be subject to disciplinary action, termination, and/or personal lawsuit

- **Claims of discrimination based on transgender status or gender identity are covered under Title VII’s prohibition against “sex” discrimination**

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- **Sexual Orientation:**

- **Sexual orientation claims are not yet officially allowed but if based on gender stereotyping theory they may be covered under Title VII. Complainants raising sexual orientation claims should be advised they may pursue their complaint under BOTH the Title VII process and the agency's process established specifically for these types of cases under Executive Order 11478, as amended by Executive Orders 12106 and 13087**

- **Employees may seek help under the following:**

- **Merit Systems Protection Board**

- **Office of Special Counsel**

- **Negotiated Grievance Procedures**

- **Agency Grievance Procedures**

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POSH VIDEO

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DISCRIMINATION FREE WORKPLACE
EEO PROCESS

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- **Supervisory responsibility:**

- **Prevention is the best tool to eliminate discrimination and sexual harassment from the workplace**

- **Educate your employees on EEO and Sexual Harassment policy**

- **Talk out problems before they become a larger issue**

- **Respect everyone in your workplace**

"Employees or applicants who believe that they have been subject to unlawful discrimination by a federal agency have the right to file a complaint with that agency within "45 calendar days" of the discriminatory event".

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- **ADR process:**

- **Complainant may request ADR at any time during the complaint process**

- **A neutral third party mediator will be assigned to mediate the case**

- **The parties involved will come together to discuss and find a resolution that both parties can agree upon**

- **ADR is completed within 90 days and if ADR is unsuccessful at the pre-complaint process the individual may file a formal complaint with the agency; if ADR is unsuccessful at the formal process the individual may continue the forma process.**

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- **Resources:**
  - **U.S. Equal Employment Opportunity Commission (EEOC) Website: www.eeoc.gov**
  - **MCB Butler CHRO-EEO Website: www.mcbbutler.usmc.mil/chro/eeo.asp**
  - **Computer/Electronic Accommodations Program (CAP) Website: www.tricare.osd.mil/cap (provides information on electronic equipment available for accommodating people with disabilities)**

- **Reference:**
  - **DOD Directive 1440.1**
  - **Code of Federal Regulations (CFR) 29 1614**
  - **Manual Directive (MD) 110**
  - **DON Discrimination Complaint's Management Manual**
  - **Commanding General's Policy on EEO and POSH**
  - **EEOC.GOV**

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- **Activities Serviced by MCIPAC EEO Office:**

- **Marine Corps Bases on Okinawa (Marine Corps Air Station Futenma)**
- **III Marine Expeditionary Forces**
- **Marine Corps Air Station Iwakuni, Japan**
- **MCB Kaneohe Bay, Hawaii**
- **Joint Forces Camp Fuji, Japan**
- **Joint Forces Mujuk, Korea**
- **Marine Corps Joint Program, Guam**

Total Population serviced as of FY-12 (Does not include applicants & former employees) is 8025; includes U.S. Civil Service personnel, Non-Appropriated Funds, and Japanese National employees.

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QUESTIONS?

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BACK UP SLIDES

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MCIPAC EEO OFFICE

Equal Employment Opportunity Officer
MajGen Charles L. Hudson,
Commanding General, Marine Corps Installations Pacific (MCIPAC)

Deputy, Equal Employment Opportunity Officer
Mr. Danny S. Kealoha
MCIPAC EEO Program Manager
645-5423

EEO Specialist
Mr. Vergus W. Davis, Jr. and Ms. Renee Jamie Adachi
645-5422

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- **Counseling process:**

- **Counseling is completed within 30 days**

- **The EEO Counselor will talk to all parties involved for limited fact-finding, and seek every possible resolution of the allegations**

- **No determination of merit will be made**

- **The Complainant has the right to remain anonymous, use official time to talk to the EEO counselor, designate representation, be free from reprisal, and must continue to work at an acceptable level**

- **If no resolution is reached the individual may file a formal complaint with the agency**

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- **Formal process:**

- **The Complainant may file a formal complaint if the problem is not resolved in the informal stage**

- **An official investigation will be conducted by the DOD Investigations and Resolutions Directorate (IRD)**

- **An EEOC Administrative Judge will make a decision on the case or the complainant has the right to request a Final Agency Decision.**

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- **Appropriate actions in the EEO Process:**

- **Get reactions under control – don't take it personal**
- **Treat complainant in a business and professional manner**
- **Advise your own chain of command they may be able to assist**
- **Gather the "facts" surrounding the allegations**
- **Work quickly to resolve the issue**
- **Avoid situations resulting in reprisal**
- **Cooperate fully with personnel involved in the process**